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RANGERS, INC.

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21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

23

24 CORY SPENCER, an individual;
25 DIANA MILENA REED, an
individual; and COASTAL
26 PROTECTION RANGERS, INC., a
California non-profit public benefit
27 corporation,

28 CASE NO. 2:16-cv-02129-SJO (RAOx)

**PLAINTIFFS' RESPONSE TO
DEFENDANT BRANT BLAKEMAN'S
OBJECTION TO MAGISTRATE
JUDGE OLIVER'S MINUTE ORDER
OF MARCH 29, 2018**

Case No. 2:16-cv-02129-SJO (RAOx)

Plaintiffs,

V.

4 LUNADA BAY BOYS; THE
5 INDIVIDUAL MEMBERS OF THE
6 LUNADA BAY BOYS, including but
not limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON
7 AKA JALIAN JOHNSTON,
MICHAEL RAE PAPAYANS,
ANGELO FERRARA, FRANK
9 FERRARA, CHARLIE FERRARA,
and N. F.; CITY OF PALOS VERDES
10 ESTATES; CHIEF OF POLICE JEFF
11 KEPLEY, in his representative
12 capacity; and DOES 1-10,

Defendants.

Complaint Filed: March 29, 2016

TABLE OF CONTENTS

	<u>TABLE OF CONTENTS</u>	
		<u>Page</u>
1		
2		
3	I. INTRODUCTION	1
4	II. RELEVANT FACTS	1
5	III. ARGUMENT	2
6	A. This Court Should Not Consider Defendant Blakeman's Objection Because It Is Procedurally Improper.....	2
7	B. Even If Defendant Blakeman Had Filed The Required Motion, This Court Should Not Consider His Objection Because It Is Untimely.....	3
8		
9	IV. CONCLUSION	4

I. INTRODUCTION

2 This Court should reject Defendant Blakeman's Objection to Magistrate Judge
3 Oliver's March 29, 2018 Order. To start, it is procedurally improper in that he
4 failed to file a motion for review, as required by Local Rule 72-2.1. Additionally,
5 his "Objection" is untimely under both Rule 72 of the Federal Rules of Civil
6 Procedure and Local Rule 72-2.1. Given Defendant Blakeman's failure to comply
7 with the Court's rules and the Federal Rules of Civil Procedure, this Court need not
8 and should not consider his Objection.

II. RELEVANT FACTS

10 On October 30, 2017, Plaintiffs filed an *Ex Parte* Application for an Order
11 Setting Hearing on Plaintiffs' Motion for Sanctions against Defendants Brant
12 Blakeman and the City of Palos Verdes Estates. (Dkt. No. 508.) The *Ex Parte*
13 Application included Plaintiffs' Motion for Sanctions against Defendants Blakeman
14 and the City of Palos Verdes Estates. (Dkt. Nos. 508-2, 508-3.)

On December 13, 2017, Magistrate Judge Oliver issued a Report and Recommendation (“Report”), in part recommending that Plaintiffs be granted monetary sanctions in the form of reasonable attorneys’ fees and costs incurred by Plaintiffs in bringing their Motion for Sanctions against Defendant Blakeman. (Dkt. No. 538.)

20 On December 27, 2017, Defendant Blakeman filed an Objection to Magistrate
21 Judge Oliver's Report. (Dkt. No. 541.) On January 9, 2018, Plaintiffs filed their
22 Response to Defendant Blakeman's Objection to the Report. (Dkt. No. 543.)

23 On February 12, 2018, this Court concurred with and adopted Magistrate
24 Judge Oliver's Report. (Dkt. No. 544.) The Court directed Plaintiffs to submit a
25 declaration in support of reasonable attorneys' fees and costs. (*Id.* at p. 5.) The
26 Court further directed that “[t]he amount of monetary sanctions shall be determined
27 by the Magistrate Judge upon the further submissions of the parties.” (*Id.*)

1 After the Court granted summary judgment to the City of Palos Verdes
 2 Estates and Chief Kepley, and declined jurisdiction over the state law claims, on
 3 February 15, 2018, Magistrate Judge Oliver issued an Order advancing the deadlines
 4 for the parties' submissions regarding attorneys' fees and costs. (Dkt. No. 546.)

5 On February 22, 2018, Plaintiffs' counsel filed their declarations in support of
 6 a monetary award. (Dkt. Nos. 550, 551.) On March 1, 2018, Defendant Blakeman
 7 filed a brief in response. (Dkt. No. 552.)

8 On March 29, 2018, Magistrate Judge Oliver issued an Order regarding the
 9 Monetary Sanctions against Defendant Blakeman. (Dkt. No. 568.)

10 III. ARGUMENT

11 A. **This Court Should Not Consider Defendant Blakeman's Objection 12 Because It Is Procedurally Improper**

13 This Court should reject Defendant Blakeman's Objection to Magistrate
 14 Judge Oliver's Order because he failed to file a noticed motion as required. Local
 15 Rule 72-2.1 provides in relevant part:

16 Any party objecting under F.R.Civ.P 72(a) to a Magistrate
 17 Judge's ruling on a pretrial matter not dispositive of a
 18 claim or defense *must file a motion for review* by the
 19 assigned District Judge, designating the specific portions
 20 of the ruling objected to and stating the grounds for the
 21 objection.

22 L.R. 72-2.1 (emphasis added).

23 Defendant Blakeman did not file a motion for review as required by Local
 24 Rule 72-2.1. And connected with that failure, he did not meet and confer with
 25 Plaintiffs as would be required before filing the motion. *See* L.R. 7-3.

26 Plaintiffs are entitled to statutory notice and the requisite amount of time to
 27 file an opposition on the merits to a proper motion for review, after Defendant
 28 Blakeman complies with his obligation to meet and confer. Plaintiffs have been
 deprived of that opportunity and the Court should not consider his Objection.

1 **B. Even If Defendant Blakeman Had Filed The Required Motion, This
2 Court Should Not Consider His Objection Because It Is Untimely**

3 Plaintiffs' Objection to Magistrate Judge Oliver's Order is untimely and
4 should not be considered by the Court. Rule 72 of the Federal Rules of Civil
5 Procedure provides:

6 When a pretrial matter not dispositive of a party's claim or
7 defense is referred to a magistrate judge to hear and
decide, the magistrate judge must promptly conduct the
8 required proceedings and, when appropriate, issue a
written order stating the decision. *A party may serve and
file objections to the order within 14 days after being
served with a copy. A party may not assign as error a
defect in the order not timely objected to.* The district
judge in the case must consider timely objections and
10 modify or set aside any part of the order that is clearly
11 erroneous or is contrary to law.

12 Fed. R. Civ. P. 72(a) (emphasis added).

13 Similarly, Local Rule 72-2.1 provides that a motion for review of a
14 Magistrate Judge's ruling on a nondispositive matter "shall be filed ... within
15 fourteen (14) days of service of a written ruling." L. R. 72-2.1.

16 After this Court concurred with and accepted Magistrate Judge Oliver's
17 Report and Recommendation, it referred the matter of determining the amount of
18 monetary sanctions to Magistrate Judge Oliver. (Dkt. No.544.) Magistrate Judge
19 Oliver issued the Order to which Defendant Blakeman now objects on March 29,
20 2018. (Dkt. No. 568.) Defendant Blakeman was simultaneously served (by
21 electronic means) with the Order on March 29, 2018. (*Id.*) Thus, pursuant to FRCP
22 72(a) and Local Rule 72-2.1, Defendant Blakeman had 14 days from March 29,
23 2018, or until April 12, 2018, to file his Objection. He did not do so. Rather, on
24 April 13, 2018, without offering any explanation or excuse for missing the deadline,
25 Defendant Blakeman filed his Objection. (Dkt. No. 571.)

26 Because his Objection is untimely, Defendant Blakeman is precluded from
27 challenging any alleged error in Magistrate Judge Oliver's Order. Fed. R. Civ. P

1 72(a). Further, because Defendant Blakeman's Objection is untimely, this Court
2 should not consider it.

3 **IV. CONCLUSION**

4 This Court need not, and should not, consider Defendant Blakeman's
5 improper and untimely Objection. If the Court decides to consider it, however, then
6 Plaintiffs respectfully request that they be given the statutory amount of time to
7 oppose it on the merits, which they would have had if Defendant had filed a proper
8 motion.

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10 DATED: April 17, 2018

HANSON BRIDGETT LLP

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By: /s/ Lisa M. Pooley

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RANGERS, INC.

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